

## Comment Set I

August 28, 2003

Ms. Billie C. Blanchard  
EIR Project Manager  
CPUC  
505 Van Ness Avenue  
San Francisco, CA 94102-3298  
(by e-mail August 28, 2003, 3:10PM)

Reference: **Notice of Availability, Draft Environmental Impact Report for the Proposed Jefferson Martin 230kV Transmission Line Project**

Subject: **Comments - Peninsula Corridor Joint Powers Board (PCJPB) or Caltrain**

Dear Ms. Blanchard:

We understand the draft EIR document has identified the Northern Segment Environmentally Superior Alternative as illustrated in Figure E-1 of the draft EIR document, however, for CPUC's further review and consideration, we are providing PCJPB project updates and additional information to the draft EIR dated July 2003 as follows.

### **Under Table F.1. Cumulative Scenario-Approved and Pending Projects**

#### City of San Bruno

Update on the Project Status:

15. Last community meeting held in July 2003, and the preliminary engineering was completed in July 2003. In August 2003, upon completion of public review, the City Council voted to support the project. Final Project Study Report is in progress. Detail design is scheduled to begin immediately after.

Add the following project:

Construct grade separated pedestrian crossing at Scott Street  
(This project is included in the Grade Separation at South Linden Avenue)

#### City of South San Francisco

Add the following projects:

- Construct Railroad Grade Separation at South Linden Avenue, including additional 2 tracks and reconfiguration of Union Pacific Railroad (UPRR) industrial spurs in the vicinity of South Linden Avenue
- Construct Caltrain South San Francisco Station in the vicinity of East Grand Avenue Overpass and Highway I-101 Overpass
- Additional two tracks (Four track alignment), including Union Pacific Railroad (UPRR) yard tracks, team tracks and spur tracks from the border of Brisbane/South San Francisco to Scott Street.

(Preliminary Engineering has been in the work with the City since 2001/2002 and is scheduled to complete in November 2003)

I-1

## Comment Set I, cont.

City of Brisbane

Add the following project:

Additional two tracks (Four-track alignment corridor), including Union Pacific Railroad (UPRR) yard tracks, team tracks and spur tracks from the border of Tunnel Avenue to the border of Brisbane/South San Francisco.

(This segment of the work is part of the four track alignment in the City of South San Francisco)

If you have any questions, please e-mail [susantob@samtrans.com](mailto:susantob@samtrans.com) or call 650.508.6435.

Sincerely,

Bernard Susanto  
Senior Engineer

Cc Darrell Maxey, Chief Engineer

I-1

## **Responses to Comment Set I – Peninsula Corridor Joint Powers Board**

- I-1 The text in Table F-1, Cumulative Scenario – Approved and Pending Projects, has been revised in this Final EIR to update and include the projects listed in the comment. In addition, Figure F-1, Cumulative Project Locations, has been revised to incorporate the additions to the table.

## Comment Set J



SENT VIA FAX AND MAIL

August 28, 2003

Billie Blanchard, CPUC  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104

SUBJECT: Peninsula Corridor Joint Powers Board comments on the Draft  
Environmental Impact Report for the Proposed Jefferson Martin  
230 kV Transmission Line Project

Dear Billie Blanchard:

The Peninsula Corridor Joint Powers Board (JPB) has recently become aware of the Draft Environmental Impact Report for the Proposed Jefferson-Martin 230 kV Transmission Line Project. We have not had a chance to review thoroughly the document. However, we have a few comments on the document.

1. The JPB would be interested in talking with PG&E about the feasibility of siting the underground transmission line along the Caltrain right-of-way (ROW).
2. When building under JPB property:
  - a. P.G. & E. must obtain the appropriate access document from JPB.
  - b. P.G. & E. structures must be constructed to support railroad loads including raised railroad structures.
  - c. P.G. & E. structures must be completely below grade.
  - d. P.G. & E. structures must be a minimum of six feet below the bottom of the railroad ties.
3. When building at grade on JPB property (including buildings, conduits, gates, fences, etc.):
  - a. P.G. & E. must obtain the appropriate access document from JPB.
  - b. P.G. & E. must allow for a future four track alignment, maintenance access roads, and future electrical substations.
  - c. P.G. & E. must account for new construction of the South San Francisco Caltrain Station
4. When building over JPB property:
  - a. P.G. & E. must obtain the appropriate access document from JPB.
  - b. P.G. & E. must allow for clearance of overhead electrical catenary systems.

J-1

PENINSULA CORRIDOR JOINT POWERS BOARD  
1250 San Carlos Ave. – P.O. Box 3006  
San Carlos, CA 94070-1306 (650)508-6269

## Comment Set J, cont.

Billie Blanchard  
August 28, 2003  
Page 2 of 2

5. When building on property adjacent to the JPB Right-Of-Way, the applicant will insure that it's facilities do not constrict JPB's ability to expand to a four track alignment by working with JPB staff to guarantee:
  - a. P.G. & E. subsurface structures will be constructed to support railroad loads including raised railroad structures.
  - b. P.G. & E. subsurface structures will be a minimum of six feet below the bottom of railroad ties in areas anticipated for the four track alignment.
  - c. P.G. & E. 's above ground structures will allow for maintenance access roads and future electrical substations in support of the future four track alignment.
6. When excavating adjacent to JPB property:
  - a. P.G. & E. must account for any adverse structural impacts to the railroad tracks due to subsidence from groundwater pumping or inadequate shoring.
7. When abandoning old transmission line conduits on or adjacent to JPB property P.G. & E. shall remove structures, conduit and associated hardware and fill in with clean soil, and compact to surrounding soil conditions.

In addition, within the proposed P.G. & E. transmission line alignment, the JPB has joint facilities and shared rail corridor with the Union Pacific Railroad.

Thank you for including and addressing these comments in the Draft Environmental Impact Report. If you have any questions, please contact Erik Ólafsson of my staff at (650) 508-6368.

Sincerely,



Corinne Goodrich  
Manager of Strategic and Long Range Planning

cc: Elizabeth Wiecha  
Carol Wolf  
Brian Fitzpatrick  
Erik Ólafsson

Darrell Maxey  
Bernard Susanto  
Ian McAvoy  
File

J-1

## Responses to Comment Set J – Caltrain

J-1 Subsequent to the public review period of the Draft EIR, CPUC representatives participated in meetings between PG&E and the Peninsula Corridor Joint Powers Board (JPB). The CPUC considered the Caltrain (or JPB) ROW as an alternative in the Northern Segment (see Section 4.3.11 in Appendix 1) that could be used in conjunction with any of the southern segment alternative routes. If used in conjunction with PG&E Route Option 1B, the route would travel east in Trousdale Drive and connect to Caltrain ROW at Trousdale Drive, just east of El Camino Real, traveling north from there in the Caltrain ROW. Under this alternative and if used in conjunction with the Proposed Project, the transmission line would be within the Caltrain ROW for approximately 4 miles. From the Proposed Project in the City of San Bruno, the Caltrain ROW Alternative could enter the Caltrain ROW by diverging from Huntington Avenue and the BART ROW near Euclid Avenue, or by traveling east on Forest Lane. Forest Lane may be preferable because the crossing at Euclid Avenue includes many other underground utilities, including storm drainages, water lines, and natural gas pipelines. This route under this alternative could generally remain within the Caltrain ROW from this point, which is just south of the I-380 crossing, until the either the crossing of Van Waters and Rodgers Road or the point in the City of Brisbane where Bayshore Boulevard is immediately adjacent to the Caltrain ROW. At either of these points, in the City of Brisbane, this alternative could then follow the route of the Modified 230 kV Underground Alternative to the Martin Substation.

The alternative would share many of the aspects of the Modified 230 kV Underground Alternative, but would avoid placement of the transmission line in the streets of the City of South San Francisco. In addition, it would avoid the planned Caltrain grade separation project in San Bruno. It would, however, place the line in a narrow ROW that is used by an active commuter and freight rail system and other utilities.

After careful review, this alternative was eliminated from detailed review in the EIR. As documented in detail in Section 4.3.11 of Appendix 1, the alternative does not meet two project objectives, and it presents significant feasibility challenges. These issues are summarized below.

**Project Objectives.** This alternative would meet two of the four objectives of the Proposed Project (implement the ISO Board of Governors resolution and diversify the transmission system). PG&E states that there would be reliability concerns because the narrow ROW and rail safety requirements could significantly constrain or disrupt PG&E's ability to respond to emergencies on a timely basis. PG&E states that it would require full-time (24-hours per day) access to the line in emergencies such as line failure, or damage caused by third-party dig-ins or earthquakes. Locating an electrical fault on cables, splices, or terminations can be time-consuming, and PG&E would need full-time access to respond to such an emergency. Caltrain has two existing tracks encompassing approximately 30 feet in its ROW that varies from 80 to 130 feet, and there are approved plans (in progress) to construct two additional tracks in Brisbane that will increase the width of the coverage in the ROW to 60 feet. Given the four-track expansion and the 80-foot width of much of the ROW, the transmission line would have to be installed within 15 feet of active rail lines along many parts of the Caltrain route segment, requiring compliance with restricted access rules. Therefore, PG&E would not be able to undergo continuous emergency work within 15 feet of active rail lines unless the rail lines were temporarily taken out of service or work occurred at night when rail service is minimal. While

such repair work would not be prohibited by the JPB, it would likely be restricted, adding to the time required for repair.

In addition, this alternative would likely fail to achieve the objective of meeting electric demand by September 2005 or summer 2006. As described in detail below under "Feasibility," the installation of an underground transmission line along the Caltrain ROW in the Cities of San Bruno, South San Francisco, and Brisbane would require a complex design involving use of adjacent private properties and conflict with existing rail facilities, necessitating scheduling coordination that could delay the project timeline. Construction of the transmission line in severely constrained areas would require PG&E to work within 15 feet of active rail lines or sidings. This would require some rail lines to be temporarily taken out of service, or it would require PG&E to work at night or on weekends when rail service is minimal. This would curtail the pace of work. Additionally, installing the new transmission line and vaults in constrained areas would require PG&E to occupy or close industrial spurs and sidings. PG&E would need to coordinate this work with industrial facilities in South San Francisco that depend on the spurs and sidings. As such, transmission line work could temporarily disrupt rail service to the industries along the ROW and industries elsewhere that are only accessible via the main line in the ROW. Coordinating temporary closure, removal, and then restoration of many active side-tracks or spurs would also curtail the pace of work. Considering these constraints, the CPUC believes that it would not be possible to construct this alternative within the time frame of the project objectives.

**Feasibility.** No legal or regulatory constraints to use of Caltrain ROW have been identified. However, there are two potentially significant technical feasibility concerns related to the Caltrain ROW Alternative: (a) lack of space in some portions of the ROW, (b) potential conflict with existing utilities, which includes potential interference between the line protection facilities and the railroad communication system and other utilities within the ROW.

- **Lack of Space in ROW.** The narrow ROW and rail access restrictions provide the primary constraints to construction and operation of the transmission line in the JPB ROW. A design/engineering challenge would also be imposed by the requirement to install splice vaults at approximately 1,600 foot intervals along the underground transmission line segment (requiring the installation of 13 prefabricated concrete vaults, each 10 feet wide and 24 feet long, along the Caltrain segment. It appears that installation of vaults and the line itself in the narrowest parts of the JPB ROW would require the use of adjacent non-Caltrain property in many areas, possibly also requiring temporary closure, removal, and then restoration of many active side-tracks or spurs serving adjacent properties. Due to these concerns and others, detailed below, it cannot be guaranteed at this time that such design would be found feasible. Appendix 1, Section 4.3.11, identifies several specific areas in which construction would be especially difficult.
- **Interference with Existing Utilities.** Placement of a new trench in the narrow JPB ROW would also be complicated by the presence of a natural gas pipeline and fiber optic cable line that travel on either side of the ROW through most of the area, as well as a jet fuel pipeline in the northern segment of the ROW. These other utilities are usually present on both sides of the main tracks near the edge of the ROW. Because the construction of the transmission line would need to occur at least five feet away from the gas line, and special precautions would need to be observed near the fiber optic cable line, these utilities further constrain the JPB ROW.

## Comment Set K



*City of Millbrae*  
621 Magnolia Avenue, Millbrae, CA 94030

LINDA T. LARSON  
Mayor  
NADIA V. HOLOBER  
Vice Mayor  
DANIEL F. QUIGG  
Councilman  
ROBERT G. GOTTSCHALK  
Councilman  
MARC HERSHMAN  
Councilman  
MARY VELLA TRESELER  
Treasurer

August 25, 2003

Ms. Billie Blanchard  
California Public Utilities Commission  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104

**SUBJECT: COMMENT OF THE CITY OF MILLBRAE REGARDING THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE JEFFERSON-MARTIN 230 KV TRANSMISSION PROJECT**

Dear Ms. Blanchard:

The City of Millbrae provides the following comment regarding the Draft Environmental Impact Report dated July 2003 for the Jefferson-Martin 230 kV Transmission Project.

1. The analysis of the impacts of the Environmentally Superior Alternative "PG&E Route Option 1B" (Option 1B) fails to properly identify impacts to the City of Millbrae in all respects.
2. There has been no analysis of the impact of Option 1B to the existing underground utility array in the El Camino Real, nor has there been a realistic assessment of the feasibility of the alternative with respect to placement within that array.
3. The analysis of Option 1B fails to recognize that CalTrans is just completing a full renovation and resurfacing of the El Camino Real in Millbrae which would be severely impacted by the proposed project.
4. The policies contained in Millbrae's General Plan and Millbrae Station Area Specific Plan were not reviewed in the Land Use Section of the DEIR with respect to Option 1B.
5. The impacts of the construction of Option 1B to traffic and circulation near the new BART/CalTrain Station and throughout the City of Millbrae have not been adequately analyzed.

K-1

K-2

K-3

K-4

K-5

City Council/Administration  
(650) 259-2334

City Clerk  
(650) 259-2334

Public Works/Engineering  
(650) 259-2339

Parks/Recreation  
(650) 259-2360

Police Department  
(650) 259-2300

Personnel  
(650) 259-2334

Finance/Water  
(650) 259-2350

Community Development  
(650) 259-2341

Building Division  
(650) 259-2330

Fire Department  
(650) 259-2400

## Comment Set K, cont.

Ms. Billie Blanchard  
August 25, 2003  
Page Two

6. The effect of electric and magnetic fields caused by Option 1B has not been adequately analyzed.

**K-6**

Please provide responses or contact me at any time to discuss these comments.

Sincerely,



Ralph E. Petty  
Community Development Director

cc: Mayor and City Council  
Mark Church, San Mateo County Board of Supervisors  
Jeff Killian, City Administrator  
Joan Cassman, City Attorney  
Ron Popp, Public works Director  
Stephanie Issacson, PG&E Representative

## Comment Set K, cont.

### Jefferson-Martin Transmission Project

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**From:** Ralph Petty [rpetty@ci.millbrae.ca.us]  
**Sent:** Wednesday, August 27, 2003 10:08 AM  
**To:** jeffmartin@aspeneq.com  
**Subject:** Comment of the City of Millbrae on the Jefferson Martin 230kV Transmission Project



PGE

ent Ltr 8-25-

The City of Millbrae has written and sent a comment letter on this project. The letter is also attached in an electronic format to this email. Additionally, the City provides the following supplemental comment in response to recent press reports that a westerly underground route through Millbrae may be considered.

Supplemental Comment of the City of Millbrae:

There has been no analysis in the DEIR of the impacts of an underground project configuration from Skyline at Trousdale through Millbrae along Skyline Blvd to the City of San Bruno.

**K-7**

sincerely,

Ralph E. Petty  
Community Development Director  
City of Millbrae

### Jefferson-Martin Transmission Project

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**From:** Ralph Petty [rpetty@ci.millbrae.ca.us]  
**Sent:** Friday, August 29, 2003 11:16 AM  
**To:** jeffmartin@aspeneq.com  
**Subject:** Supplemental Comment of the City of Millbrae Regarding the Jefferson Martin 230kV Transmission Project

The city of Millbrae joins the cities of San Bruno and Burlingame in supporting the "Partial Underground Alternative" as proposed in the DEIR.

**K-8**

## Responses to Comment Set K – City of Millbrae

K-1 The EIR preparers disagree that the impacts of Route Option 1B alternative are not properly identified. Each issue area in Section D identifies specific impacts that would occur due to this alternative, and associated mitigation measures recommended to reduce any potentially significant impacts. The sections describing alternatives are in compliance with *CEQA Guidelines* Sections 15126(d)(3) and generally shorter than discussions of the Proposed Project, because:

*(3) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. . . . If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed.*

In many cases it is possible to cross-reference the Proposed Project sections and avoid repetition of general discussions of impacts and mitigation measures that are applicable to alternatives as well as to the Proposed Project, where they are described in detail. Also, please see Response to Comment K-4.

K-2 Detailed analysis of the substructure existing in El Camino Real was not completed for the EIR, because it was assumed that PG&E had completed at least a feasibility-level survey of available space in this road prior to suggesting the Route Option 1B Alternative. PG&E confirmed this assumption in its letter of September 12, 2003, stating that while it did not perform extensive substructure investigations on alternative routes that were presented in its application, it did conduct preliminary site review of Skyline Boulevard, Trousdale Avenue, and El Camino Real. Based on these visual surface investigations, locating underground lines along these segments appears feasible. There were no indications of significant water or sewer facilities along Skyline or Trousdale. While El Camino Real likely contains major utility structures, the width of that roadway (five traffic lanes and a median strip) indicates that there is sufficient room available to locate a duct bank for a single-circuit transmission line. The City's comment does not present information countering this conclusion. It should be noted that collocating utilities in urban streets is common practice.

K-3 Section D.12.4.1 (Transportation and Traffic) of the Final EIR has been modified to recognize that El Camino Real in Millbrae has been newly renovated and resurfaced. Implementation of Mitigation Measure T-3a (Repair Damaged Road ROWs) is recommended for the Option 1B alternative to reduce the physical impacts to this road to less than significant (Class III) levels.

K-4 Policies contained in both the Millbrae General Plan and in the Millbrae Station Area Specific Plan were reviewed during the evaluation of the PG&E Underground Route Option 1B Alternative, the only alternative passing through the jurisdiction of the City of Millbrae. No conflicts with the City's adopted policies were identified. Only two General Plan policies were identified as applicable to the project alternative. Policy LUIP-9 (Land Use Implementing Program) calls for the undergrounding of utilities. Although this policy is directed at City utilities, the Option 1B alternative would be undergrounded within the City and is consistent with the policy. Noise Policy NS1.4 reads: "Regulate construction activity to reduce noise

between 7:00 pm and 7:00 am.” The evaluation of potential noise impacts presented in Section D.11 (Noise and Vibration) of the Draft EIR also addresses consistency with adopted local noise ordinances. As noted therein, the municipalities along the underground routes each have an ordinance prohibiting nighttime construction; after-hours work can only be conducted when the work is coordinated with the local municipality. Mitigation measures addressing construction noise are also identified in both Section D.3 (Visual Resources) and Section D.11.

Although every adopted City of Millbrae policy was reviewed during the evaluation of the Option 1B alternative, no explicit discussion was provided in Section D.2.4.1 (Land Use) because no policy conflicts were identified. CEQA requires a significantly lower level of detail for analysis of alternatives than is required for a proposed project. Section 15126.6 of the *CEQA Guidelines* requires an EIR to include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the Proposed Project. The discussion of the Option 1B alternative achieves this end by focusing on the potential areas of impact and contrasting them with the Proposed Project.

- K-5 Section D.12.4.1 of the EIR discloses the potential transportation and traffic impacts that would be associated with the Route Option 1B Alternative. Impacts T-1 through T-8 are applicable to the segment of the alternative that would be within Millbrae, which would require implementation of Mitigation Measures T-1a (Prepare Transportation Management Plans), T-1b (Restrict Lane Closures), T-3a (Repair to Damaged Road ROWs), T-6a (Ensure Emergency Response Access), L-7a (Provide Continuous Access to Properties), and L-7b (Coordinate with Businesses). Refer to Sections D.12.3 (Transportation and Traffic Environmental Impacts and Mitigation for the Proposed Project) and D.2.3 (Land Use Impacts and Mitigation for the Proposed Project) for detailed descriptions of these impacts and mitigation measures.
- K-6 Please see General Response G-1 regarding EMF. Analysis has been added to Section D.8.7.4 of the EIR (Table D.8-16a) regarding the magnetic fields that would be created by the Route Option 1B Alternative along El Camino Real and Trousdale Drive.
- K-7 Please see Response to Comment K-2.
- K-8 The City of Millbrae’s support for the Partial Underground Alternative is acknowledged. Comment Set R (County of San Mateo) also presents the joint support of the Cities of San Bruno, Millbrae and Burlingame for a compromise that would be a hybrid of the Partial Underground Alternative and the Sneath Lane Transition Station Alternative, with Sneath Lane Underground route.

## Comment Set L



**CALIFORNIA ISO**

California Independent  
System Operator

**VIA FACSIMILE AND US MAIL**

August 28, 2003

Ms. Billie Blanchard  
California Public Utilities Commission  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, California 94104

**Re: A. 02-09-043: Draft Environmental Impact Report: Jefferson-Martin  
230 kV Transmission Project**

Dear Ms. Blanchard:

The California Independent System Operator (CA ISO) appreciates the opportunity to submit these comments on the Draft Environmental Impact Report (DEIR) for the Jefferson-Martin 230 kV Transmission Project (the Project). The CA ISO acknowledges the responsibility of the California Public Utilities Commission (CPUC) to determine whether the environmental benefits of particular alternatives to the Project are justified by their relative costs. Thus, the CA ISO has reviewed the DEIR from the perspective of evaluating whether the alternatives identified in the DEIR would adequately meet the reliability needs addressed by the Project. The CA ISO has not assessed the relative environmental benefits versus costs of the various alternatives assessed in the DEIR.

Based on its review, the CA ISO has determined that all of the alternatives fully evaluated in the DEIR (i.e. those that are listed in Section 2.1 of the Executive Summary, pages ES-10 through ES-19) would meet the reliability needs addressed by the Project, except the "No Project" alternative. The CA ISO agrees with the statement in the DEIR that if the Project is not undertaken and the anticipated load growth occurs, alternative courses of action would be required to prevent electricity shortages in the San Francisco and Peninsula areas. DEIR at ES-19. In effect, without the Project, the CA ISO considers that the reliability of electric service to San Francisco and the Peninsula would be at risk. The CA ISO intends to fully document its views on the reliability need for the Project in its testimony in docket A.02-09-043.

The following are a number of more detailed comments/recommendations regarding the DEIR.

PO Box 639014 Folsom, California 95763-9014 Telephone: 916 351-4400

L-1

## Comment Set L, cont.

1. On page ES-1, second paragraph, it should be noted that the Project would increase the load serving capability within the San Francisco Peninsula between Jefferson and San Mateo Substations, in addition to increasing the load serving capability north of the San Mateo and Martin Substations. This point should also be added to the Introduction/Overview section of the main report. It should be clear to the reader that the Project benefits load all along the Project route due to it being parallel to other transmission lines and load serving substations. While the Project increases normal load serving capability to Martin Substation, it also increases contingency load serving capability of all lines parallel to the Project. **L-2**
2. The DEIR identifies as the Environmentally Superior Alternative, the PG&E Route Option 1B Alternative (an all underground route that would be installed in paved roads) in the southern area, and the Modified Existing Underground 230 kV Alternative (also all underground, but following a much shorter route east of the Proposed Project route) in the northern area. DEIS at ES-2. These alternatives eliminate the need for connections with the existing Jefferson-Martin 60 kV lines and a transition station at Sneath Lane. In this manner, the Environmentally Superior Alternative could perhaps increase the reliability of the Project as a result of moving the 230kV overhead portion of the Project away from the 60kV line. **L-3**
3. In the description of the Proposed Project, on page ES-2, a bullet should be added identifying a second 230/115 kV transformer bank at Martin Substation. Although the DEIR does not necessarily include review of or specific information on modifications within substations, including this information may be helpful for completeness. **L-4**
4. On page ES-19, the DEIR Executive Summary states: *“.....If neither the Proposed Project nor any alternative were approved by the CPUC, and predicted load growth occurs, PG&E and the ISO would need to evaluate alternative courses of action that could be implemented to prevent electricity shortages in the San Francisco and Peninsula areas.”* First of all, the CA ISO notes that PG&E and the CA ISO have evaluated a “No Project Alternative” as part of the overall planning process for determining the reliability need for the Project. As noted above, given the results of our analysis, the “No Project Alternative” did not provide the required system performance necessary to meet the applicable national, regional, and local planning standards. If neither the Project nor any viable alternative is put into place, PG&E and the CA ISO will have to undertake further evaluation to identify alternatives to address reliability needs. Thus, the CA ISO recommends the following modifications to the last sentence; the words *“evaluate”* and *“prevent”* should be replaced with the words *“re-evaluate”* and *“minimize”*, respectively. **L-5**
5. On page ES-19, the first bullet appears to articulate a conclusion that is inconsistent with the conclusion articulated in the first sentence at the top of page ES-25 (Non-Wires Alternatives; New Generation Alternatives; Rationale **L-6**

## Comment Set L, cont.

for Elimination). The CA ISO is in agreement with the rationale set forth in the DEIR that new generation alternatives have not been approved and that there is no guarantee that they will be approved. While the CA ISO would agree that the Williams turbines might enjoy some support where Potrero 7 does not, to be realistic, the CA ISO suggests that the first bullet be clarified to reflect that the successful siting of any new generation within the City of San Francisco is, at best, unclear.

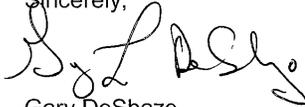
L-6

6. On page ES-19, the CA ISO believes that a fifth bullet should be added as follows ***“Increased Utilization of Special Protection Schemes (SPS) PG&E and the CA ISO have implemented an SPS in San Mateo and are evaluating the implementation of an SPS in San Francisco. Continued and increased reliance on SPS in the Peninsula and San Francisco would be insufficient to provide for compliance with reliability criteria. Nonetheless, if no other alternative is pursued, at a minimum continued and increased use of SPS in the Peninsula and San Francisco will be required to provide for controlled involuntary load curtailment during “high load” operating conditions.”***

L-7

If you have any questions regarding these comments, please feel free to contact me at (916) 608-5880 or [gdeshazo@caiso.com](mailto:gdeshazo@caiso.com).

Sincerely,



Gary DeShazo  
Regional Transmission Manager

cc: Jeanne Sole  
Armando Perez  
Kevin Dasso  
Theresa Mueller

## Responses to Comment Set L – California Independent System Operator (ISO)

- L-1 The California ISO's determination that all "action" alternatives would meet reliability needs is acknowledged. Issues related to load growth and project need will be fully addressed in the CPUC's general proceeding and hearings on this project, but not in the EIR.
- L-2 The language in this comment has been added to Section A.2.1, the discussion of project objectives. This language was not added to the Executive Summary as recommended, because that section does not address detailed project objectives.
- L-3 The ISO's statement of potential reliability benefits of the Environmentally Superior Alternative over the Proposed Project is acknowledged.
- L-4 A detailed discussion of the individual components of the Proposed Project is found in Section B, Description of Proposed Project, on page B-7 in the Draft EIR. On that page, Table B-1, Summary of Proposed Project Components, lists the modifications to Martin Substation, including the "install[ation] of three, 134 MVA, 230/115 kV transformers and one 230 kV underground termination structure." The Executive Summary is designed to give only a summary overview of the major components of the Proposed Project, and, therefore, the text has not been changed.
- L-5 The recommended wording changes have been made to Executive Summary Section 2.1 under No Project Alternative.
- L-6 While it may appear that there is an inconsistency between the "Non-Wires Alternatives" and the No Project Alternative, these sections are in fact correct. These two discussions serve different purposes under CEQA. The "Non-Wires Alternatives" discussion considers whether new generation can meet the project objectives identified by PG&E, and finds that it cannot. The No Project Alternative discussion is consistent with *CEQA Guidelines* Section 15126(d)(3) requirements, which state that

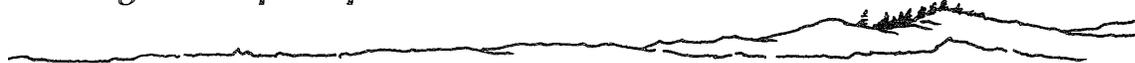
*The "no project" analysis shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.*

Therefore, the No Project Alternative scenario makes a judgment that the CCSF Williams turbines are reasonably expected to occur. However, this does not mean that these turbines would meet PG&E's project objectives. Under CEQA, all EIR's are required to analyze a No Project Alternative.

- L-7 The text under the No Project Alternative in Section 2.1 (page ES-19), has been revised in this Final EIR to incorporate a fifth bullet discussing increased utilization of Special Protection Services (SPS) under the No Project Alternative. The text in Section C.6.2 on page C-52 discussing the No Project Alternative, as well as the list of acronyms in Appendix 2, have also been changed to reflect this addition.

## Comment Set M

### *Regional Open Space*



August 28, 2003

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Ms. Billie C. Blanchard, CPUC  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104

Re: Jefferson Martin 230 kV Transmission Line Project DEIR

Dear Ms. Blanchard:

On behalf of the Midpeninsula Regional Open Space District (District), I would like to submit the following comments on the Draft Environmental Impact Report (DEIR) for the southern portion of the Jefferson-Martin 230 kV Transmission Line Project (Project).

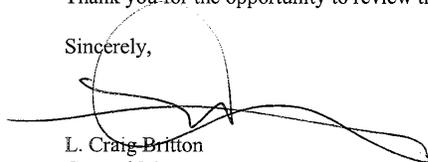
It is still the District's position that the *No Project Alternative* would be the preferred course of action for this Project. However, of the other alternatives discussed, the District believes a transmission route that is located entirely underground, and in as few areas as possible on sensitive land, would be satisfactory. Therefore, the District believes that an environmentally feasible alternative might be *Route Option 1B* because potentially significant impacts to visual, cultural, biological, and recreational resources could be avoided.

As stated in the DEIR, *Route Option 1B* is environmentally superior because it would avoid conflicts with San Mateo County's ordinances and policies for visual quality, tree protection, and biological resources. It would also avoid conflict with SFPUC maintenance activities because it would be located entirely within paved roadways. In addition, no transition station would be required because the route would be located underground. Most importantly, *Route Option 1B* would avoid impacts to Edgewood County Park and Pulgas Ridge Open Space Preserve which were purchased with Land and Water Conservation Fund money. Due to this, a proposed replacement or expansion of any existing easement over these lands must be replaced with land rights equal or better in every respect in terms of visual, cultural, biological, and recreational resources.

As a public agency, the District has acquired over 48,000 acres of land in the foothills, hillsides, and ridgetops of the Santa Cruz Mountains over the past thirty-one years. Together with other agencies, the District works to preserve an open space greenbelt to help protect the Bay Area's scenic and wildland backdrops for its visual beauty, historic landscapes, for the protection of natural resources and sensitive habitats, and for public enjoyment and low-intensity recreation.

Thank you for the opportunity to review the DEIR and your consideration of our comments.

Sincerely,



L. Craig Britton  
General Manager

LCB:mdv

cc: MROSD Board of Directors

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M-1

M-2

## **Responses to Comment Set M – Midpeninsula Regional Open Space District**

- M-1 The District's support for the No Project Alternative, and if a project is constructed, for the PG&E Route Option 1B alternative is acknowledged. This conclusion is consistent with the EIR's identification of the Environmentally Superior Alternative in the southern area of the project.
- M-2 The District states that the Route Option 1B would avoid impacts to the Preserve, which was purchased with Land and Water Conservation Fund (LWCF) money. It is noted that the Partial Underground Alternative would also avoid impacts to the Preserve, allowing the removal of the two existing towers on Preserve property. Regarding LWCF, please see Response to Comment N-19 (below), which addresses this issue in detail in response to National Park Service concerns.

## Comment Set N



### United States Department of the Interior

NATIONAL PARK SERVICE  
Golden Gate National Recreation Area  
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:

L76 (GOGA-PLAN)

AUG 28 2003

Billie Blanchard  
California Public Utilities Commission  
c/o Aspen Environmental  
235 Montgomery Street, Suite 800  
San Francisco, California 94104-2906  
FAX: (415) 955-4776

Re: *NPS Comments on the CPUC DEIR on PG&E Jefferson Martin 230 kV Project*

Dear Ms. Blanchard:

The National Park Service (NPS), submits the following comments on the Draft Environmental Impact Report (DEIR) for the Jefferson-Martin 230 kV Transmission Project (Project) prepared by the California Public Utilities Commission (CPUC). The NPS actively participates in the planning process because NPS is charged with administering two conservation easements, totaling approximately 23,000 acres, which the project would traverse. The larger easement is entitled "Scenic Easement" and the smaller easement is entitled "Scenic and Recreational Easement." The lands encumbered by the easements are owned by the City and County of San Francisco and are referred to in the DEIR as the Peninsula Watershed lands.

**1. The NPS continues to maintain that its easements impose a significant limitation on the types of projects that can occur on Watershed lands.**

NPS's scoping comments defined the degree of control that the NPS exercises over projects occurring in the watershed and expressed opposition to the project as proposed in PG&E's Proponent's Environmental Assessment because it would unreasonably interfere with NPS's ability to administer the conservation easements.

NPS finds that the DEIR has misinterpreted the terms and conditions of the NPS's easements. As a result of this error, the DEIR incorrectly concludes that the project is compatible with the conservation easements and that it may proceed absent NPS approval. NPS's response to DEIR interpretations of easements is contained in the detailed responses below to pages A-9, A-10, A-11, D.2-6 and D.2-9 & 10.

**2. The NPS remains opposed to PG&E's Proposed Project because the project description is not well defined, impacts on the scenic, recreational and biological resources of the watershed are significant, and it is inconsistent with NPS's easements.**

The DEIR does not adequately describe the project. An accurate, complete, and final project description is essential to preparing an adequate EIR. The DEIR is lacking in site-specific detail, particularly for resource topics including vegetation and endangered species. The DEIR offers boilerplate listings of the

N-1

N-2

## Comment Set N, cont.

varied biological communities surrounding the Proposed Project, yet avoids describing site-specific information on the destruction of wildlife habitat and vegetation at specific locations along the proposed route. For example, the biological analysis states, “Quantification of impacts is not possible at this time because final design of the Proposed Project has not been completed (page D.4-33).” The DEIR should analyze site-specific impacts to vegetation and wildlife from each tower installation and pull site, each cable pulling and each access road site. Also see specific comments for pages D.3-73, 105, 121, and 143 below related to visual resources.

The Proposed Project’s impact on the scenic, recreational and biological resources of the watershed would be substantial and permanent. Each above-ground segment identified in the DEIR acknowledges the presence of numerous special status species and each runs through habitat the DEIR acknowledges as “sensitive habitat areas.” In the Jefferson Substation to Ralston Substation segment, the Proposed Project will clear a 50-foot swath through an area described as “sensitive habitats with animal occurrences” by the California Natural Diversity Database. The ground disturbance will have severe and permanent implications for multiple native vegetation communities, the wildlife dependent upon them, and wildlife corridors. Ultimately, no mitigation measures can remedy the permanent clearing of the right-of-way for the entire length of the Proposed Project. Regular maintenance clearing of these lands not only permanently removes more than 18 acres of vegetation per mile, but also the mammals, birds and insects that utilize those native habitats. Furthermore, as the DEIR acknowledges on page D.4-33, previous maintenance clearing has allowed the invasion of non-native vegetation which further threatens the native species adjacent to the cleared areas. In addition to the biological impacts in clearing the project area, the impacts of the massive towers for a ten-mile stretch comprise an extremely significant impairment to scenic resources. NPS’s scenic easements are intended to protect the view of the watershed for the public.

Specific comments are contained in responses to pages B-8, D.3-16, D.3-66, D.3-73, 105, 121, and 143, and D.3-137.

### **3. The NPS supports the undergrounding of both 60kV and 230kV lines along the Canada Road.**

The project presents an historic opportunity to restore the visual resources of the Peninsula. The 60kV line impacts the visual resources of the Watershed. The vision required to look for opportunity to improve the long-term health of our public lands is missing from the project. Undergrounding both lines would permanently restore an uninterrupted view of the watershed and impart biological benefits. Vegetation resources, impacted by decades of line maintenance and ground clearing, could be restored. Removing the towers and lines will prevent wildlife mortality caused by powerline maintenance and construction activities, bird electrocutions and collisions with powerlines, and impacts on special status and wildlife species. Undergrounding would allow the obliteration of powerline maintenance roads, preventing the recurrence of erosion and sedimentation. The DEIR states that this all-underground alternative would fulfill all project objectives (see DEIR C-24).

Additionally, in line with the recent opening of the watershed to guided outings, undergrounding both lines would be a tremendously positive gesture to the watershed’s surrounding communities. Recreational users of the watershed, wildlife enthusiasts and neighbors alike would applaud the vision of those who look to restore our scenic open spaces. The NPS urges the CPUC and PG&E to reconsider and propose the truly environmentally preferred alternative of undergrounding both lines.

**N-2**

**N-3**

## Comment Set N, cont.

**4. The NPS strongly disagrees with the decision to eliminate Alternative C.5.2.1 (PG&E's 1B with Underground 60kV Line) from full consideration in the DEIR, and requests that the alternative be reinstated.**

N-4

The DEIR arbitrarily severs the connection between the 60kV and 230kV lines to dismiss Alternative C.5.2.1. The two feasible Alternatives (C.4.2.1 and C.4.2.2) each include modification or removal of the proposed 60kV line as part of the project. It is inconsistent to tie the 60kV and 230 kV lines in one alternative and not another. For example, the DEIR links the Partial Undergrounding Alternative to the removal of towers in Edgewood Park, clearly connecting the removal of the 60kV line to the installation of the underground utility. The need for the project also ties the lines together. If the 60kV line were sufficient to provide adequate power to San Francisco the 230kV line would not be needed. The separation appears to be an arbitrary decision used to justify disconnecting these closely tied lines.

The DEIR is misleading by suggesting that the Proposed Project is simply a modification of the 60kV line and not a replacement. For example the DEIR states "While it is true that the Proposed Project would involve some modifications to the existing 60kV line (removal of the existing towers and replacement of the line on new towers that could also accommodate the proposed 230kV line), those changes would be merely to accommodate locating the proposed 230kV line in the same alignment as the existing 60kV line (page Ap.1-45)." Removal of the towers and replacement of the lines is a rebuild and not a modification. As stated on page ES-1, the 60kV line is being "rebuilt" and removed from its original supporting structures (which will themselves be torn out) and replaced in a wholly different structure as part of a larger project. As such, the 60kV line has exactly the "essential connection or relationship" (page ES-20) required by CEQA. While PG&E may resist the linking, it is PG&E that ties the lines together by proposing "rebuilding" (page ES-1) the 60kV line with the 230kV line in new structures along a modified pathway. Because PG&E is proposing to go to the expense and effort to combine both lines into the same new system of structures, then it is reasonable to believe PG&E believes the projects have an "essential connection" as described on page ES-20.

CEQA Guidelines and legal feasibility are selectively applied to dismiss Alternative C.5.2.1. The DEIR defines legal feasibility as "Does the alternative have the potential to avoid lands that have the legal protections that may prohibit or substantially limit the feasibility of permitting a 230kV transmission line (page C-3)." Yet, it is used in the text to eliminate the Alternative C.5.2.1 stating "Therefore, because of the legal feasibility issues defined above, under the guidelines of CEQA this alternative will not be evaluated for full analysis in the EIR (page Ap.1-46)." CEQA guidelines have nothing to do with legal feasibility as defined. It seems Alternative C.5.2.1 is rejected based on the threat of lawsuit from PG&E. If that is the case, it should be stated, but do not misinterpret environmental laws to reject feasible alternatives. Alternative C.5.2.1 cannot be rejected by legal feasibility, regulatory feasibility, or technical feasibility and must be analyzed in the Final EIR.

If any alternative is lacking in legal feasibility, it is the proposed project itself. As explained below in our comments regarding the NPS's easements (see comments for pages D.2-6 through D.2-10), the proposed project would be incompatible with NPS's easements and PG&E is not entitled to obtain an expanded easement over the Peninsula Watershed lands absent NPS's consent. As a result, the proposed project is not legally feasible.

N-5

**5. SFPUC policy compels the CPUC to require burial of the 230kV line.**

N-6

The approved Peninsula Watershed Management Plan compels the SFPUC to "restrict new utility lines

## Comment Set N, cont.

proposed on the watershed for the transmission of or communications to existing utility corridors, and require that new power lines be buried, when feasible. All proposed alignments shall undergo a scenic impact analysis (page D.2-22).” The DEIR contends that the proponent’s preferred alternative is consistent with WA-6 because the 230kV line would be built in an existing utility corridor, employing selective quotation from the SFPUC policy. While the policy does in fact restrict new utility corridors, it also adds the word “and” to ensure that all new lines are buried where feasible. Additionally, the DEIR uses weak justification for concluding that the project is consistent with the policy, “Therefore, because the Proposed Project would be located in an existing utility corridor and a scenic impact analysis has been completed, the Proposed Project would generally be consistent with the provisions of Policy WA-6 (page D.2-22)”. The mere fact that the proponent has completed the analysis does not exempt it from following the full text of the policy.

N-6

### PAGE-SPECIFIC COMMENTS ON THE DEIR

**Page A-9:** The DEIR reports that the NPS has stated that it has “permitting authority over the Proposed Project. NPS has not identified the permit that would apply.” This is an inaccurate statement. Throughout this process, the NPS has explained that the easements provide NPS with discretionary authority to review and approve certain types of projects occurring on watershed lands. (Such projects include those that would result in topographic changes, vegetation clearing, and the erection of structures.) For such projects, the NPS would issue a written approval determination that would be based on a NEPA document prepared by the project proponent. PG&E has refused to prepare a NEPA document for this project. For projects approved by the NPS as conforming to the easements, the NPS would enter in a binding, written agreement with the project proponent to ensure that the project is carried out in accordance with the terms and conditions of the NEPA decision document (i.e., Finding of No Significant Impact or Record of Decision).

N-7

**Page A-10:** The DEIR states that CCSF “has the legal authority to transfer ownership of the watershed lands or to authorize uses of the watershed lands.” This statement is misleading in that it ignores the specific terms of the Scenic Easement and the Scenic and Recreational Easement. The CCSF is not free to convey new rights-of-way on watershed lands if the uses authorized in the conveyances would unreasonably interfere with NPS’s easements. Nor may the CCSF authorize projects or uses that trigger NPS’s concurrence rights under the easements without first obtaining NPS’s concurrence. (See our comment for pages D.2-6 through D.2- 10 for a full explanation of the proper interpretation of the easements.)

N-8

**Page A-11:** The DEIR states that PG&E anticipates that it will acquire the needed expansion of its right-of-way from 50’ to 100’ from the CCSF through a voluntary agreement or through condemnation proceedings. There are three legal impediments to this. First, neither PG&E nor CCSF may initiate condemnation proceedings against a property interest held by the federal government, in this case the easements administered by the NPS. Second, the CCSF may not issue a new right-of way for activities that would unreasonably interfere with NPS’s easements. As explained in these comments, the NPS has determined that the proposed project would unreasonably interfere with NPS’s ability to preserve open space values and scenic and natural resources on the easement lands. Third, the project triggers NPS’s concurrence and approval rights under the easements. As explained in our scoping comments and in this letter, the NPS would not concur with the project as proposed because it is incompatible with the easements.

N-9

## Comment Set N, cont.

**Page B-8:** The DEIR states that the average height of the new towers would be 20' higher than the existing towers. This statement is very misleading because it includes in the calculation of the average the total loss of height of the few existing towers that will be removed and not replaced (e.g., Towers 0/2A and 6/35B). By virtue of figuring the average in this way, the DEIR makes it appear that many towers will be far less than 20' higher than the tower being replaced. Table B-2 indicates that there will be 101 towers once the proposed project is finished. The table indicates that of those 101 towers, at least 62 will be 20' higher than the current towers, ranging from 20 feet to 50 feet in additional height. The reality is that the vast majority of the towers will be substantially taller and more noticeable than current towers. The DEIR fails to disclose the true magnitude of this impact and misleads the public about the extent of the impact on visual resources.

N-10

**Page D.2-6 and D.2-10 (Right-of-Way):** The DEIR relies on the incorrect assumption that PG&E's project would take place wholly within its existing right-of-way and that no new right-of-way would need to be obtained by PG&E.<sup>1</sup> This is simply not true and is contradicted by other sections of the DEIR. For example, page A-11 of the DEIR states that PG&E's easement "would need to be expanded to 100'" from its present 50' width. (Similar text appears on page B-16.) The widening of the right-of-way is needed to accommodate structural and vegetation clearances around the new 230kV transmission lines. There are also several instances where the route of the project will change. Figures D.3-5c and D.3-8c show a completely new alignment for towers and transmission lines through sections of the watershed. PG&E would have to obtain a new right-of-way over these portions of the watershed.

N-11

For these reasons, the text in the DEIR that refers to the notion that PG&E's proposed project is grandfathered by virtue of it taking place wholly within a pre-existing right-of-way should be deleted. The DEIR should clearly state that a new right-of-way will be needed and that no right-of-way can be issued absent NPS approval. However, as explained herein, the NPS would not consent to the issuance of an expanded right-of-way for the project as proposed.

**Page D.2-6 (Interpretation of the Reservation of Rights in the Easements):** On this and subsequent pages, the DEIR presents a summary of the easements administered by the NPS and an assessment of whether the project is consistent with the easements. The DEIR concludes that "because the modifications to the existing PG&E transmission line appears to fall under the SFPUC's rights to permit utility operations, a review of the Scenic and Recreation Easement conducted during the preparation of this EIR did not reveal any prohibitions to the project." The NPS disagrees with this statement. As shown below, the proposed project is not included within the SFPUC's reservation of rights and the proposed project is incompatible with the easements.

N-12

The reservation of rights on which the CPUC and PG&E rely to conclude that the project is essentially grandfathered is not reasonably subject to the interpretation given it by the CPUC and PG&E. The reservation states:

The *Grantor* for itself, its representatives and its successors, assigns and permittees reserves all of their rights not specifically restricted herein, including without limitation the perpetual right to use the below-described premises for purposes which they may

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<sup>1</sup> DEIR page D.2-6 states "Item 5 of the easement excludes encroachments presently permitted (i.e., at the time the easement was granted) and renewals thereof," and DEIR page D.2-10 states that the project "would not require a new encroachment permit."

## Comment Set N, cont.

find necessary or desirable for their water or other utility operations as now or hereafter conducted, including without limiting the generality of the foregoing the right to construct, maintain, repair, expand and reconstruct buildings (including caretaker's cottages), storage facilities, reservoirs, pipe systems, cable systems, flumes, head walls, retention walls, bulkheads, cofferdams, pumphouses, dikes, roadways, public utilities and similar improvements upon the below-described premises. (Scenic and Recreation Easement, page 7.)

**N-12**

The text of the reservation only reserves "rights" "not specifically restricted herein." Those activities that are specifically restricted by the easements are outside the scope of the reservation and may not proceed absent concurrence by the Department of the Interior, acting through the NPS. The activities "restricted herein" by the easements are found in the easements' restrictive covenants.

The first restrictive covenant states that "the land shall be preserved in its present natural state and shall not be used for any purpose other than for the collection, storage and transmission of water and protection of water quality; outdoor recreation; ecological preservation and other purposes, which shall be compatible with preserving said land as open-space for public use and enjoyment." There are a number of other restrictive covenants including those that prohibit the erection of structures; the granting of further encroachments to adjoining property owners; excavation or topographic changes; and the cutting or removal of timber or brush, absent NPS concurrence. (See pages 5-6 of the Scenic and Recreation Easement, and pages 5-7 of the Scenic Easement.)

Any project that falls within a restrictive covenant is thus outside the scope of the reservation of rights. The proposed project in the DEIR triggers virtually every restrictive covenant because it involves development of open space, grading and topographic changes, vegetation clearing, the issuance of an expanded right-of-way, and the erection of structures. Therefore the proposed project is not a "right" "not specifically restricted herein." As a result, the DEIR is incorrect when it states that SFPUC has the "right to permit" this project and the "right to grant an expansion of the easement" absent NPS concurrence. (DEIR p. D.2-6.)

**Pages D.2-9 - D.2-10:** The issue of the project's compatibility with the NPS-administered easements is of critical importance to the NPS. The DEIR analyzes whether the project is compatible with the easements on pages D.2-9 and D.2-10. To summarize, the NPS disagrees with the reasoning used in the compatibility determinations, and the NPS finds that the proposed project would unreasonably interfere with, and is not compatible with, NPS's ability to administer the easements.

**N-13**

- The project is not compatible with the provision of the easements which the DEIR refers to as the "Statement of Objectives."<sup>2</sup> This provision in the easements provides that the land is to be preserved in its "natural condition to the maximum extent possible..." and that use of the land should be limited "to the uses to which it is presently devoted in order to discourage conversion of such land to urban use" because the land has "substantial public value as open-space land and that the preservation of the land in its present open state constitutes an important physical, social, esthetic and economic asset" to the CCSF. The DEIR concludes that the project is consistent with this provision of the easements because the project "represents a continuation of a use that is present on the property" and because of the visual resource mitigation measures.

2 This paragraph in the easement is actually a "whereas" clause.

## Comment Set N, cont.

The NPS disagrees. First, the project is not merely a continuation of an existing use. This project is entirely different in scope and character. The new towers and lines will be much higher and more visible; the towers will be far more massive; and the project will require a new right-of-way which means that vegetation clearing and removal will take place in areas currently unaffected by the existing transmission lines. Second, reliance on the visual resource mitigation measure as a means of achieving compatibility is also misplaced. As explained in our comment for pages D.3-73, 105, 121, and 143, the tower elimination recommendations are not actual mitigation. Because it remains uncertain whether PG&E will adopt these recommendations, the DEIR may not rely on these recommendations as a means of mitigating impacts. Moreover, tower elimination results in an increased height of the remaining towers and lines, resulting in additional, adverse visual impacts.

**N-13**

- The project is also not compatible with the easements' first restrictive covenant. The DEIR discusses this covenant on page D.2-9 and concludes that the project is compatible with this provision because the project is "a continuation of an existing use" and because the visual resource mitigation measures will result in "a net improvement in public views of the landscape within the watershed and the easement lands, which would make the project consistent with this [restrictive covenant.]"

**N-14**

The preceding comment and NPS comment regarding the right-of-way issue on page D.2-6 have already addressed why this project is not a continuation of an existing use. However, on page D.2-9 the DEIR further asserts that as a continuing use, the project is compatible with ongoing public use and enjoyment of the easement lands. Clearly, higher and more massive towers and the expansion of vegetation clearing into new areas will degrade the visual and natural characteristics of the watershed lands and thus degrade public enjoyment of the area.

The statement that the project will result in a "net improvement of public views" of the easement lands is one of the most egregious statements in the DEIR. It is simply beyond belief that a project of this magnitude and scope can be called an improvement over existing visual and natural conditions. And, as explained several places in this comment letter, the tower elimination recommendations are not reliable mitigation measures and cause impacts of their own. This leaves only the requirement that the towers be painted green and the requirement to relocate a few towers to less visible locations. These remaining measures do not compensate for the impacts of the new towers and lines. For these reasons, the project is not compatible with the first covenant in the easements.

- The project is not compatible with the restrictive covenant prohibiting the erection of structures. The DEIR states that because the project is a "continuing use," the project is compatible. However, this covenant prohibits the erection of structures except for those "directly related to and compatible with the aforesaid uses." The "aforesaid uses" are those referenced in the first restrictive covenant, which are "the collection, storage and transmission of water and protection of water quality; outdoor recreation; ecological preservation and other purposes, which shall be compatible with preserving said land as open space land for public use and enjoyment." The proposed project does not fit within any of these "aforesaid" uses and is thus not compatible with this section of the easements.<sup>3</sup>

**N-15**

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<sup>3</sup> The "aforesaid uses" in the Scenic Easement are even more restrictive. Thus the project is not compatible with the scenic easement either.

## Comment Set N, cont.

- The DEIR also finds that the project is consistent with the fifth restrictive covenant in the easements, which prohibits new encroachments of any kind, including those by easement. The reasons given are because (1) the project would not require an encroachment permit, (2) the existing PG&E corridor is a presently permitted use and (3) because the reservation of rights provides an exception to this restrictive covenant.

N-16

This reasoning is incorrect. As explained in our comment right-of-way comment for page D.2-6, a new right-of-way grant will be needed. Also, the fact that PG&E's current transmission lines are the subject of a right-of-way has no bearing on the ability of the CCSF to issue a new right-of-way that would post-date NPS's easements. Any new grants by CCSF may not unreasonably interfere with NPS's easements, and as explained herein, the proposed project is incompatible with the easements. Third, the reservation of rights in section 8 of the easements does not exempt this project from the restrictive covenants. Refer to reservation of rights comment, page D.2-6 above, for a full exposition of this issue.

- The DEIR finds that the project is compatible with the sixth restrictive covenant in the easements which prohibits topographic changes or excavation without prior concurrence by the NPS. The rationale given by the DEIR is that the project is exempted from NPS concurrence by virtue of the reservation of rights in section 8 of the easements. As explained above in our comment for page D.2-6, the reservation of rights in the easements does not exempt this project from the restrictive covenants.

N-17

- There is a seventh restrictive covenant which the DEIR fails to discuss. This covenant prohibits "the cutting, destroying or removing" of any timber or brush absent NPS concurrence. As explained in many parts of the DEIR, including Table B-4 on page B-55, both the construction of the project and long-term maintenance of the new towers and lines will involve the cutting, destroying and removal of many types of trees and vegetation both within and outside the extent of PG&E's existing right-of-way. The magnitude and extent of these vegetation removal and control activities is not compatible with NPS's ability to maintain the easements' open space values, scenic and natural resources, or recreational values. As a result, the project is not compatible with this covenant of the easements.

N-18

**Page D.2-20:** The DEIR discusses whether the proposed project is compatible with the policies of Edgewood County Park and Pulgas Ridge Open Space Preserve. PG&E's current right-of-way crosses through these parks, and as with the right-of-way on SFPUC lands, the right-of-way across these local parks would need to be expanded to accommodate the higher towers and line clearances. The DEIR's discussion of compatibility omits to mention that these parks are both the subjects of federal grants under the Land and Water Conservation Fund. The Pulgas Ridge Open Space Preserve has received at least three grants under the LWCF and Edgewood County Park has received at least one grant. (The National Park Service Pacific West Regional Office will send a separate letter to PG&E notifying the utility of this issue.)

N-19

The Land and Water Fund is a conservation program established by Congress in 1964 to create parks and open spaces; to protect wilderness, wetlands and refuges; to preserve wildlife and to enhance recreational opportunities. Property acquired or developed with Land Water Conservation Fund (LWCF) assistance is to be retained and used for public outdoor recreation. Property acquired or developed with LWCF assistance may not be wholly or partially converted to uses other than public outdoor recreation without the prior, written approval of the NPS Regional Director. The Regional Director's decision is based on the criteria contained in the LWCF Act and its implementing regulations. See 16 U.S.C. § 4601 -8 and 36 C.F.R. Part 59. Conversion decisions trigger NEPA compliance obligations, which are carried out by the

## Comment Set N, cont.

party seeking the conversion, subject to NPS review and approval. The NPS will only consider conversion requests submitted by a local California park agency through the California Department of Parks and Recreation. All applications must conform to the application procedures contained in 36 C.F.R. Part 59. The NPS Regional Director has the discretionary authority to approve or disapprove a conversion request.

**N-19**

If constructed, the proposed project would constitute a “conversion” of park land to non-park uses because the project would limit and diminish the public outdoor recreation value of these parks, and in particular the lands within any new rights-of-way. As a result, PG&E must initiate the process for conversion approval with local park managers, who would then make the determination of whether to forward the conversion requests through the State for ultimate approval by the NPS Regional Director. The DEIR should mention that approval of a parkland conversion is a necessary, legal precursor before the proposed project could be constructed.

**Page D.3-16:** The DEIR identifies the overall visual sensitivity of the Sweeney Ridge site in the NPS as “moderate to high” because of the “low number of viewers.” The NPS disagrees that the sensitivity of an area should be tied to the number of visitors. The visitors who expend the time and effort to hike to the summit of Sweeney Ridge have the expectation that views from this vista will be superlative. These visitors are often highly sensitive to visual obstructions. The overall visual sensitivity of Viewpoint 16 should be revised to “high” and the impact analysis for this viewpoint (see page D.3-137) should be revised accordingly.

**N-20**

**Page D.3-66:** There was consideration paid toward the scenery in the proposed mitigation described in Mitigation V-8a, and depicted on Figure D.3-8c. However, the impacts caused in the construction of the reroute, would outweigh the aesthetic benefits of the move. The reroute would entail roadbuilding and attendant clearing of trees and vegetation as well as alter the topography, without reducing the number of towers.

**N-21**

**Pages D.3-73, 105, 121, and 143:** This section includes many recommendations for removing individual towers in return for increasing the height of remaining towers up to 30% above PG&E’s projected height. (For examples, see mitigation measures V-10a, V-14a, V-16, V-17, and V-19a.) While this may mitigate the impact of the individual towers to be removed, it does not mitigate the overall visual impacts of the project. This type of “mitigation” measure will actually cause an increased height and mass of the many remaining towers, and an increased height of the transmission lines above the trees and surrounding vegetation. This is not mitigation. It is simply trading one type of visual impact (the impact from more individual towers) for another (the impacts of fewer but higher towers and higher transmission lines). As provided in the CEQA Guidelines, “if a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)” (CEQA Guideline 15126.4.) Moreover, the tower elimination recommendations may never be implemented because PG&E retains the ability to determine whether tower elimination is possible. For example, page D.3-143 states: “If the elimination of Towers 13/89, 14/91, 14/92, and 14/94 cannot be accomplished, the visual impact would be significant. The same statement appears on page D.3-130 for Tower 13/84. Under CEQA, mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. (CEQA Guideline 15126.4.) Unless and until it is certain that these tower elimination recommendations will be enforceable requirements, it is improper for the DEIR to rely on them as a

**N-22**

## Comment Set N, cont.

means of mitigating impacts to less than significant levels. Even then, it would not eliminate the new, unmitigated impacts caused by the increased height of the remaining towers.

N-22

Because each of the tower elimination measures actually cause new, adverse visual impacts and because implementation of these measures is uncertain, the visual impacts of the project on watershed lands and visitors to watershed lands remains uncertain and potentially significant and adverse.

**Page D.3-137:** This page discusses views of the project from the Bay Discovery Site on Sweeney Ridge, within the NPS. The DEIR assesses the visual impact of the project from this site to be “low-to-moderate” (Class III). The NPS disagrees with this assessment. As shown in the photo simulation, the substantially increased height of the towers causes the transmission lines to be well above the trees, making both the lines and the towers far more prominent to the many visitors who hike to this site to enjoy the view. Moreover measure V-19, which the DEIR identifies as a means of “mitigating” the visual impact of the project from the viewpoint on Sweeney Ridge, may never come to fruition. Measure V-19, like the other tower elimination recommendations, requires PG&E acceptance. If PG&E declines to adopt this recommendation, the only mitigation will be the green paint on the towers. (See page D.3-143 “If the elimination of Towers 13/89, 14/91, 14/92, and 14/94 cannot be accomplished, the visual impact would be significant.”)

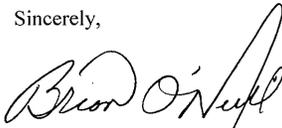
N-23

**Appendix 1, Section 4.2.2:** This section explains that the CPUC has eliminated from consideration an alternative that would have undergrounded both the 230kV and the existing 60 kV lines along Route Option 1B. The DEIR states that this alternative was rejected from full consideration because it was not legally feasible, even though the DEIR admits that this all-underground alternative would fulfill all project objectives. The NPS disagrees with the decision to eliminate this alternative from full consideration in the DEIR. See comments three and four at the beginning of the letter.

N-24

Thank you for working with the NPS on this Project. Please direct inquires to Nancy Hornor, Chief of Planning and Technical Services, at (415) 561-4937.

Sincerely,



Brian O'Neill  
General Superintendent

cc: Dan Buford, USFWS  
Tom Kendall, USACE  
Steve Moore, RWQCB  
Rob Floerke, CDFG

## Responses to Comment Set N – Golden Gate National Recreation Area

- N-1 The EIR included an exhaustive study of alternatives, documented in the EIR Appendix 1, Alternatives Screening Report. This study gave high priority to consideration of issues of major concern to the NPS, including minimizing visual impacts and disturbance of land. The alternatives considered in the EIR for the southern segment include the Partial Underground Alternative and the Route Option 1B Alternative, both of which would result in substantially less visual and recreation impacts than the Proposed Project as defined by PG&E. Please see Responses to Comments N-7 through N-18 regarding consistency with NPS easements.
- N-2 Section D.2.2.1, Federal and State Regulations, and Appendix 4, Land Use, discuss consistency with the Scenic and Recreation Easements (copied in full in Appendix 4B) and the Peninsula Watershed Management Plan policies (see also Responses to Comments N-11 through N-14).

As described in Section D.4.1.3, Plant Communities and Sensitive Habitat Communities within the Project Area, of the Draft EIR, “description and quantification of plant communities within the project area were completed by PG&E’s biologists based on field surveys in July 2002, using digital vegetation maps of Edgewood Park and Preserve and San Bruno Mountain provided by the San Mateo County Parks Department, and draft vegetation maps of the Crystal Springs Watershed produced by the Golden Gate National Recreation Area (GGNRA). During the field investigation completed by consultants to PG&E, the vegetation types present within the study area boundaries for each portion of the Proposed Project were compared to the existing vegetation maps, discrepancies were noted, and the vegetation was photographed. A full wetland delineation of all project features will be conducted prior to construction to meet permitting requirements.” Section D.4.1.4, Special Status Plant and Wildlife Species within the Project Area, discusses the methods used to determine if a particular special status species inhabited the Project Area.

In Section 6.1 of PG&E’s PEA, the biological surveys performed by PG&E were described by stating, “special-status species surveys were conducted within a 100-foot-wide survey corridor centered on the current existing 50-foot-wide right-of-way (ROW) during the spring and summer of 2001 and 2002. Areas outside the existing 100-foot-wide survey corridor that were not previously surveyed for special-status species surveys (e.g., cable pull sites, staging areas, additional ROW width) will be surveyed as indicated prior to construction. Additional reconnaissance level surveys of specific Project elements (e.g., tower sites, cable pull sites) were conducted during the summer of 2002 to obtain additional information on vegetation, wildlife habitat, and potential wetland resources within these areas.” Biological Assessments of New Access Roads, Construction Pull Sites, and Helicopter Staging Areas were also submitted by PG&E to the CPUC in June 2003 (see Appendix 5B, Biological Resources – Supporting Data).

Therefore, based on extensive research and site surveys, even without final engineering and a quantification of exact areas of construction, the degree of impact can be defined. Coupled with the implementation of strong, all-encompassing mitigation most of the impacts can be reduced to less than significant levels (Class III) in the absence of site-specific data. Significant, unavoidable (Class I) impacts are still expected to occur on all serpentine grasslands, especially in the vicinity of Edgewood County Park and Preserve.

The same is true of the Visual Resources analysis. With 19 key viewpoints, impacts such as visual contrast, project dominance, and view blockage, can be evaluated. As part of the Proposed Project, visual mitigation measures include the elimination and movement of towers to reduce impacts to less than significant (Class III) levels. Significant impacts are still expected to occur in the vicinity of Edgewood Park and Preserve, I-280 Southbound, Lexington Avenue, Black Mountain Road, and at the proposed transition station location at San Bruno Avenue and Glenview Drive. Refer to Responses to Comments N-10, N-20, N-21, N-22, and N-23 for further information.

Clearing and maintaining utility access roads are already necessary along the existing 60 kV transmission ROW, which is the same utility corridor as the Proposed Project. In Section D.4.3, Environmental Impacts and Mitigation Measures of the Proposed Project, and Table D.4-4, Mitigation Monitoring Program, the Draft EIR acknowledges the impacts to vegetation and wildlife and proposes mitigation measures. Potentially significant impacts to biological resources include temporary and permanent loss of sensitive vegetation communities, loss and damage to trees, erosion and sedimentation, direct wildlife mortality, wildlife disturbance from human presence, bird tower/line collisions, and habitat removal or disturbance of special status wildlife species. All of these impacts are mitigable to less than significant levels (Class III) with implementation of mitigation measures recommended in Section D.4 (Biological Resources).

Section D.9.3 (Recreation), Environmental Impacts and Mitigation Measures of the Proposed Project, and Table D.9-7, Mitigation Monitoring Program, describes potentially significant impacts to recreational resources, including construction disturbance at recreational facilities and operation-related impacts on recreational facilities, which is considered significant and unmitigable within Edgewood Park.

- N-3 The NPS objects to the elimination of PG&E's Route Option 1B With Undergrounding the 60 kV Line Alternative (Appendix 1, Section 4.2.2). This alternative would require both undergrounding of the proposed 230 kV line and the relocating and undergrounding of the existing 60 kV line. For the reasons explained in Section 2.3.2.1 of Appendix 1 to the Draft EIR, this alternative cannot be evaluated under CEQA.
- N-4 Please see Response to Comment N-3. While the commenter is correct that the Proposed Project requires a re-build of the existing 60 kV towers, the project objectives guide the selection of alternatives. If an alternative can be constructed to provide a new 230 kV line (as defined by the objectives) without affecting the existing 60 kV line, there is no legal basis in CEQA that would allow removal or relocation of that 60 kV line.
- N-5 Please see Responses to Comments N-7 through N-9, and N-12 through N-18 (below), which apply to the general issue of the Grant of Scenic and Recreation Easements.
- N-6 The commenter's point that *Peninsula Watershed Management Plan* Policy WA-6 requires all new power lines to be buried, where feasible, is acknowledged, and was recognized at the time the policy analysis was conducted for the EIR. The point about selective quotation is unclear; the discussion of consistency on Page D.2-22 (in the Land Use section of the Draft EIR) clearly acknowledges that utility lines should be buried where feasible. The full text of Policy WA-6 was carefully considered prior to making a conclusion about project consistency with the policy. The conclusion of project consistency with Policy WA-6 was based on the fact that the existing transmission line corridor traverses numerous rugged and steep areas, as well as sensitive biological habitats, within the Watershed Lands. Due to the significant difficulty of constructing an underground transmission line across such terrain and the significant adverse

effects that would occur to biological resources, burying the transmission line within the existing corridor was deemed to be infeasible. The commenter's contrary position notwithstanding, the CPUC maintains that the conclusion of project consistency with Policy WA-6 as presented in the Draft EIR is correct.

N-7 The NPS' explanation of its permit process and the related NEPA compliance is acknowledged. These actions may proceed independently of the CEQA environmental review process under which this EIR has been prepared.

N-8 Please see Response to Comment N-12.

N-9 Please see Response to Comment N-12.

N-10 The comment states that the average tower height figure is misleading because it includes the towers that would be eliminated. Based on Table B-2, Existing and Proposed Structures, in Section B of the Draft EIR, several calculations have been made regarding average tower height:

- The average difference in tower height between all existing and all proposed towers, not including towers proposed to be added or removed, is approximately 22 feet.
- When including all Proposed Project towers (both added and eliminated towers included), the average change in tower height is approximately 21 feet.
- One can also calculate the average tower height difference only for structures that would get taller (not including added or eliminated towers, or towers that would have a height reduction); this average height would be approximately 24 feet.

These calculations are consistent with the statement that the new towers would be "approximately 20 feet taller than the existing structures." However, the comment is noted and the text of Section B.2.2, 230 kV/60 kV Overhead Lines, on page B-8 has been revised to read that the new towers would be "approximately 20 to 25 feet taller than the existing structures."

N-11 The CPUC acknowledges that an expansion of the existing transmission line right-of-way across Watershed Lands would be required for implementation of the project, and further, that a modification to the existing alignment would be required between Towers 1/2 and 2/14 and between Towers 3/18 and 4/25 in order to mitigate visual impacts of the project. Nonetheless, the CPUC continues to believe that the existing transmission line constitutes an encroachment currently permitted under the terms of the Scenic and Recreation Easement. Please refer to Response to Comment N-12 for additional discussion on the currently permitted encroachment.

With respect to expanding and modifying the existing encroachment, Item 5 of the easement agreement states, "*Except as to encroachments presently permitted* and renewals thereof, Grantor shall not permit further encroachments of any kind..." [emphasis added.] This language clearly states that the prohibition of further encroachment does not apply to encroachments presently permitted. The existing PG&E project pre-dated the easement, and is considered by the SFPUC to be a permitted use. Also, it should be noted that the prohibition on further encroachment set forth in Item 5 goes on to qualify the prohibition as applying to "...encroachments of any kind or nature upon said property by the adjoining property owner for the sole benefit of said adjoining land..." Thus, Item 5 of the easement agreement does not apply to the Proposed Project on two counts: (1) the presently permitted encroachment is excepted

from the clause, and (2) the further encroachment (i.e., the expanded and modified right-of-way) would not be by an adjoining property owner and would not be for the sole benefit of adjoining property.

- N-12 **General Discussion of Easement Rights.** In its comments, the NPS states that the restrictive covenants contained in the Grant of Scenic and Recreation Easements (collectively, the "Easement") made by the City and County of San Francisco, as Grantor (CCSF), in favor of The United States of America, as Grantee, prevents implementation of the Proposed Project unless NPS approval is obtained. A copy of the Easement is contained in Appendix 4B to the Draft EIR. The Easement is discussed on pages D.2-6 through D.2-10 of the Draft EIR. That discussion describes the restrictive covenants in the Easement as they bear on the Proposed Project and concludes that, in the CPUC's opinion, the restrictive covenants do not apply to the Proposed Project and, therefore, do not prevent implementation of the Proposed Project. NPS disagrees with this conclusion based on its interpretation of the application of the restrictive covenants of the Easement to the Proposed Project.

Under California law, a contract is interpreted as a whole, giving effect to all of the material terms of the contract in light of the intent of the parties in entering into the contract. The Easement is treated as a contract under California law. To the extent that a contract contains a specific provision addressing an issue, that provision will have control over the more general terms of the contract. In light of these interpretative rules, the CPUC believes that the operative provision that governs the right of CCSF and PG&E to implement the Proposed Project — in other words, the specific provision in the Easement that governs that issue — is found in Paragraph 8.a of the Easement. That Paragraph provides, as noted in the Draft EIR, that,

The Grantor for itself, [and] its . . . *permittees* reserves all of *their* rights not specifically restricted herein, including without limitation the perpetual right to use the below-described premises for purposes which *they* may find necessary or desirable for *their* . . . *other utility operations* as now *or hereafter conducted*, including without limiting the generality of the foregoing the right to *construct*, [and] *expand* . . . *public utilities* . . . .

PG&E is a permittee of CCSF by virtue of the transmission line easement granted by CCSF to PG&E through the lands burdened by the Easement. Pursuant to this express provision of the Easement contained in Paragraph 8.a, therefore, the CPUC believes that it has reasonably concluded that both CCSF and PG&E have the right to implement the Proposed Project: It constitutes construction and expansion of a public utility as now and hereafter conducted.

This conclusion seems to be supported by the corollary provisions of Paragraph 8.b of the Easement, which provide:

Nothing herein shall be deemed to modify, supersede or affect any unrecorded lien, encumbrance, rights or other interest in the lands described herein which was in existence at the time of the recordation of this instrument. The Grantor represents and warrants that all of the uses or activities permitted by any of the aforesaid unrecorded liens, encumbrances, rights or other interests in these lands are compatible with the provisions of this Indenture.

For these reasons, the CPUC believes it likely that the restrictive covenants contained in the Easement do not apply to the Proposed Project or prevent its implementation.

**Specific Easement Covenants.** The commenter is correct that restrictions to the rights of the easement Grantor (i.e., the City and County of San Francisco) are set forth in the restrictive covenants cited, but the CPUC disagrees with the commenter's interpretation of the Proposed Project's alleged triggering of those covenants. Each of the covenants cited in the comment is addressed individually in the following paragraphs.

As noted in the comment, the first restrictive covenant states that "The land shall be preserved in its present natural state and shall not be used for any purpose other than for the collection, storage and transmission of water and protection of water quality; outdoor recreation; ecological preservation and other purposes which shall be compatible with preserving said land as open-space for public use and enjoyment." That the existing transmission line is considered to be one of the permitted "other purposes" is made clear at the end of the list of restrictive covenants. The first paragraph following the restrictive covenants reads in part, "The foregoing grant and restrictions are made and accepted *subject to the further following conditions, exceptions and reservations*: a. The Grantor for itself, its representatives and its successors, assigns and permittees reserves all of their rights not specifically restricted herein, including *without limitation* the perpetual right to use the below-described premises for purposes which they may find necessary or desirable for their water *or other utility operations as now or hereafter conducted*, including without limiting the generality of the foregoing the *right to construct, maintain, repair, expand and reconstruct* buildings (including caretakers' cottages), storage facilities, reservoirs, pipe systems, cable systems, flumes, head walls, retention walls, bulkheads, cofferdams, pumphouses, dikes, roadways, *public utilities* and similar improvements upon the below-described premises." [emphasis added.]

Insofar as the existing PG&E transmission line easement was established nearly 20 years prior to the execution of the Scenic and Recreation Easement, it was clearly intended to be included in the "other utility operations as now or hereafter conducted." This clause also makes clear the Grantor's retention of rights to construct, maintain, expand, or reconstruct public utilities on the Watershed Lands. The Proposed Project would constitute an expansion and reconstruction of the existing transmission line, and is therefore specifically retained as a permitted activity, as set forth in the preceding clause.

The second restrictive covenant states in part, "No structures shall be erected upon said land except such structures as may be directly related to and compatible with the aforesaid uses." As reasoned in the preceding paragraphs, the existing transmission line would be included in those "aforesaid uses" and the Proposed Project would clearly be directly related to and compatible with those uses.

The third and fourth restrictive covenants were not explicitly referenced by the commenter and do not pertain to the Proposed Project. The fifth restrictive covenant was addressed above in Response to Comment N-11.

The commenter cites the sixth restrictive covenant as prohibiting excavation or topographic changes. It should be noted that the actual language of the covenant pertains to "substantial excavation or topographic changes." Implementation of the Proposed Project would not require substantial excavation or topographic changes; only minor grading would be required for tower foundations and access roads. In any event, the Proposed Project would not be subject to the restrictions of this covenant, which is qualified at the beginning of the paragraph by the following language: "Except as required to accomplish the improvements hereinafter permitted

or as otherwise permitted to the Grantor hereunder,..." As discussed above, the Proposed Project would constitute a permitted improvement according to the terms of the easement agreement.

The same type of language qualifies the seventh restrictive covenant, pertaining to the cutting, destroying, or removing of timber or brush, and the restriction on cutting timber or brush therefore does not apply to the Proposed Project.

The commenter asserts that any project that falls within a restrictive covenant is outside the scope of the reservation of rights. On the contrary, as noted in the cited language above, each restrictive covenant specifically and explicitly excepts those activities within the reservation of rights from the terms of the restriction.

For the reasons set forth above, the CPUC reaffirms the analysis of the Proposed Project's conformance with Scenic and Recreation Easement and Scenic Easement over the SFPUC Watershed Lands.

- N-13 The commenter selectively cites language in the referenced "whereas clause" that omits an important qualifier to the provision. Although the clause does state the objective of preserving the land in its natural condition to the maximum extent possible, this objective is qualified by the words "...consistent with the operations and activities carried on and to be carried on by the Grantor..." As explained in Response to Comment N-12, the Proposed Project would be included in "activities carried on and to be carried on by the Grantor." In other words, the preservation of land is not to be achieved at the expense of the operations and activities permitted to the Grantor, including the expansion of public utilities. Thus, the assertion that the project would conflict with this provision is incorrect.

The referenced "whereas clause" is intended to discourage conversion of the Watershed Lands to urban use, recognizing the substantial public value that open space lands possess. The Proposed Project, though clearly a permitted use, would not conflict in any substantial way with the use of the Watershed Lands for aesthetic and recreational purposes. The project would be restricted to a narrow corridor through the open space lands, and would largely be located within the existing corridor. Any deviations from the existing right-of-way have been proposed in this EIR in order to reduce the acknowledged visual impacts of the Proposed Project. The net effect of the recommended Visual Resources mitigation measures would be to reduce the length of right-of-way and the number of support towers on Watershed Lands.

The commenter also asserts that the Proposed Project would be entirely different in scope and character from the existing transmission line. The primary characteristics of the project—transmission lines supported on structural towers and/or poles—would remain unchanged from current conditions. While, as acknowledged in numerous locations in the Draft EIR, the size of most towers would increase, it is misleading to assert that they will be "much higher" and "far more massive" than existing towers. Of the approximately 100 towers proposed, 48 percent of them would entail height increases of 20 percent or less (as compared to the existing towers at the same locations), including five towers that would be reduced in height. Sixty-seven percent of the towers would entail height increases of 25 percent or less, and 83 percent would entail height increases of 30 percent or less. While anything greater than 30 percent higher could be construed as "much higher," only 17 percent of the towers would fall within this category.

With respect to the mass of the proposed towers, percentage increases in the footprints of the proposed lattice towers would be somewhat greater than their increase in height. The existing

tower footprints range from 18 feet by 18 feet (324 square feet) to 34 feet by 34 feet (1,156 square feet), including the footings. The new tower footprints range from 25 feet by 25 feet (625 square feet) to 42 feet by 42 feet (1,764 square feet). This is an increase in area that ranges from a 60% to a 90% larger footprint when lattice towers are used. (It should also be noted that the Proposed Project includes replacement of many lattice towers with the smaller-footprint tubular steel poles.)

A conservative total temporary disturbance area of 100 feet by 200 feet was assumed in the Draft EIR, based on information provided by PG&E, for each new tower location. While the precise location of the new towers in relation to the old towers at any given location is variable, this area represents the maximum amount of land likely to be disturbed. Actual disturbance at many tower locations will be less than that calculated, particularly where helicopter techniques or other mitigation measures are used.

The Draft EIR, based on PG&E's PEA, calculated permanent impact based on the habitat area taken by the ground-level portions of the footings themselves. This offers the best approach to measuring impact, because the area between the tower footings will be revegetated with the same seed mix of the native vegetation as the rest of the temporarily disturbed area, and therefore, will have similar habitat characteristics for serpentine grassland and invertebrate populations. Based on biological surveys of existing tower locations, this area between tower footings often provides valuable habitat for native species in the Peninsula Watershed. While the entire area of construction disturbance surrounding each new overhead tower would be treated as a temporary impact on wildlife, State and federal wildlife agencies in the past have found that the permanent impacts associated with new towers to be limited to the area of the augered footings, rather than the entire footprint.

Again, it is acknowledged that tower sizes would increase at many locations along the alignment, but they would be placed in locations that have been occupied by similar structures modifying the visual environment for many decades. As considered in this important context, the Proposed Project would not represent a dramatic departure from existing conditions, and would not be entirely different in scope and character from the existing transmission line.

Regarding the comment on tower recommendations not serving as actual mitigation to identified project impacts, please see Response to Comment N-22.

- N-14 The commenter's point about the first restrictive covenant in the easement is addressed above in Response to Comment N-12. Regarding the efficacy of the recommended mitigation measures for visual impacts, please see Response to Comment N-22 (below).

The comment states that not only is the Proposed Project not consistent with the easement's first restrictive covenant and not compatible with ongoing public use and enjoyment of the easement lands (as contended in the Draft EIR), the statement that "*...the project will result in a 'net improvement of public views' of the easement lands is one of the most egregious statements in the Draft EIR.*" The comment further states that it is "*...simply beyond belief that a project of this magnitude and scope can be called an improvement over existing visual and natural conditions.*" The Draft EIR visual analysis does not state that the Proposed Project would be an improvement over existing visual and natural conditions. The Visual Resources section and elsewhere in the Draft EIR clearly identify the significant visual impacts that would occur with implementation of the Proposed Project. As discussed in the Visual Resources section and listed in Table ES-5, of the 21 visual impacts resulting from the Proposed Project, 14 would be significant. That fact does not describe an improvement over existing conditions.

An accurate citation of the referenced text on page D.2-9 is as follows: “*With effective implementation of the Visual Resources mitigation measures presented in Section D.3, [emphasis added] there would be a net improvement in public views of the landscape within the watershed and easement lands, which would make the project consistent with this restriction.*” While the commenter is critical of the recommended Visual Resources Mitigation Measures (“...*the tower elimination recommendations are not reliable mitigation measures and cause impacts of their own. This leaves only the requirement that the towers be painted green and the requirement to relocate a few towers to less visible locations.*”), examination of the measures should reveal the opportunity to effect an improvement in the viewing experience within and adjacent to an established utility corridor. Specifically:

- The structure elimination measures (even if taller structures are required) would result in a net reduction of visible structural mass with industrial character;
- The selective replacement of lattice structures with tubular structures would result in reduced structure visibility and structural complexity along portions of the trail system (particularly where the structures are in close proximity to a trail);
- The painting of portions of some towers in a neutral green color would reduce structural glare during certain lighting conditions and would help blend the structures with the background landscape, particularly from more distant vantage points as illustrated in Visual Resource Figure D.3-6C;
- The relocation of select towers would reduce the visibility of complex industrial structures (as would be the case for the relocation of Towers 10/69 and 13/84); and
- The recommended route adjustments (such as route segment 11/74 to 12/77, which is visible from the Sawyer Camp Trail on San Andreas Lake Dam) would reduce structure visibility to portions of the trail system.

As a result, it is reasonable to conclude that the Proposed Project, as conditioned by the effective implementation of the Visual Resources mitigation measures and alternative routes, would not hinder public use and enjoyment. Also, please see Response to Comment N-19 (below).

The need for the Proposed Project will be addressed in the CPUC’s general proceeding and is not addressed in the CEQA process. As extensively documented in the Draft EIR, there are significant environmental impacts associated with all of the many alternatives to the project that have been considered during the planning process. Impacts to Watershed Lands have been identified throughout the Draft EIR, and mitigation measures have been recommended to reduce the identified impacts. While it would be preferable to implement a project that had no impacts, there does not appear to be such an alternative that is feasible and capable of meeting most of the compelling project objectives. Although, as acknowledged, the Proposed Project would degrade the visual and natural characteristics of the Watershed Lands, with mitigation and absent approval of an alternative, it remains a feasible way to meet project objectives while minimizing impacts to the greatest extent possible. As discussed in Responses to Comments N-11 through N-13, it would do so without conflicting with the provisions of the Scenic and Recreation Easement.

N-15 Please see Response to Comment N-12.

N-16 Please see Responses to Comments N-11 and N-12.

N-17 Please see Responses to Comment N-12.

N-18 Please see Responses to Comment N-12.

N-19 The EIR preparers appreciate receiving the information about the Land and Water Conservation Fund (LWCF). None of the planning documents reviewed or park planners contacted in the preparation of the Draft EIR revealed this information. As noted in the comment, under the LWCF Act of 1965, no property acquired or developed with LWCF assistance may be converted to other than public outdoor recreation uses without the approval of the Secretary of Interior, acting through the Director of the National Park Service. The Secretary shall approve such conversion only if he/she finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan, and only upon such conditions as he/she deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location. In other words, under the terms of the regulating code, the project applicant could be required to provide additional parkland to compensate for land converted from outdoor recreation use for the purpose of expanding the right-of-way corridor. Conversions within Edgewood Natural Preserve or Pulgas Ridge Open Space Preserve, both recipients of LWCF assistance, would be subject to this provision.

The Midpeninsula Regional Open Space District planner contacted during preparation of the Draft EIR also noted that expansion of the existing PG&E right-of-way across the Pulgas Ridge Preserve would occur across open grassland, and would not require removal of trees (MROSD, 2003a). No new access roads would be required across either of these open space recreational lands.

The transmission line corridors across both properties predate the enactment of the Land and Water Conservation Fund Act in 1965, and as pre-existing uses would appear to be grandfathered in as allowable uses within the open space preserves. As noted in Section D.2.2.2 of the Draft EIR, no policies governing the Edgewood or Pulgas Ridge preserves were identified that would prohibit implementation of the Proposed Project. Other than actual tower footings, no land would be converted to another use, and removal of the tower sites would be offset by the conversion of the existing tower sites back to open space. Expansion of the rights-of-way across the preserves would not require any significant changes to existing conditions within the proposed rights-of-way.

However, based on information provided in a letter dated October 6, 2003 from the NPS Pacific West Region's Regional Director to PG&E, the EIR Project Team conducted analysis of potential land conversion impacts within Edgewood Park and Pulgas Ridge Preserve for inclusion in this Final EIR. A total of 6 towers under the proposed route would convert a total of 0.08 acre of lands outside PG&E's existing ROW within these areas. Because the Proposed Project route requires the granting of expanded ROWs across Edgewood County Park and Pulgas Ridge Open Space Preserve, and both recreational areas have received federal grants under the LWCF, this conversion of land outside of PG&E's ROW would be in conflict with the LWCF. Impact L-9 (Conflict with the LCWF) has been added to Section D.2, Land Use. However, implementation of either the Partial Underground Alternative or PG&E's Route Option 1B would avoid the 6 tower locations, thereby avoiding the Proposed Project's non-compliance with the LWCF Act.

N-20 Viewer exposure is a qualitative assessment of people's ability to come in contact with a given landscape (or impact) and has no relationship to an existing landscape's quality or character or

the extent of anticipated visual change. As such, the number of potential viewers of a given landscape (which is only one of three exposure components) is an integral factor in assessing that landscape's sensitivity to visual change and potential visual impacts. This should be intuitive because visual impacts only occur if they can be experienced by people. If a landscape is controlled such that people are excluded from an area and cannot experience or view the landscape, then there is no viewer exposure and no visual sensitivity and there can be no visual impact if that landscape is changed because the change cannot be experienced or viewed by the public (or private residences). Therefore, lower viewer exposure will tend to reduce the visual sensitivity of a given landscape while higher viewer exposure will tend to increase visual sensitivity. The U.S.D.A. Forest Service *Handbook for Scenery Management* (U.S.D.A. 1995, p. 4-2) acknowledges the importance of numbers of viewers as illustrated in the following excerpts:

"A large number of viewers with high concern for scenery, who view a landscape in detail for a long period of time, may substantially increase scenic importance of that landscape.

Conversely, a small number of viewers with low concern for scenery, who view a landscape fleetingly, may substantially decrease scenic importance of that landscape."

The analysis of Key Viewpoint 16-Sweeny Ridge Bay Discovery Site (pp. D.3-15 & 16) appropriately identifies existing visual quality and viewer concern as high. The analysis also appropriately identifies overall viewer exposure as moderate even though the number of viewers is low because the project would be highly visible and viewers would have opportunities for extended durations of view. Therefore, the ratings and conclusions regarding Key Viewpoint 16 are considered appropriate.

- N-21 It is acknowledged that there may be the need for some additional access road construction and very limited tree and vegetation removal associated with the proposed reroute between Towers 3/18 and 4/25. However, these landscape modifications would be minimally noticeable by travelers and recreationists on Cañada Road and the adjacent trail because the route is topographically above these areas and is difficult to see, and the reroute would substantially lessen the structural prominence in views from I-280. Therefore, the benefits of the reroute are considered to substantially outweigh the visual impacts caused by the reroute.
- N-22 It is acknowledged that the elimination of structures would likely result in larger remaining structures. In some cases, this may cause the tower(s) to extend above a treeline depending on viewing location. However, even with increased structure heights and mass, the recommended structure removals would result in a net reduction of visible structural mass along a given route segment. Furthermore, the increased tower heights (even if above visible tree lines) are not expected to result in significant visual impacts when taken in conjunction with the reduced visible structural mass. Mitigation Measures V-9a, V-14a, V-16a, and V-19a have been modified to include the specific steps that should be taken when eliminating towers or attempting to reduce tower visibility. These steps are recommended in the event that tower eliminations cannot be accomplished as described for applicable locations for Impacts V-9, V-14, V-16, and V-19 without exceeding a 30% height increase limitation.

The statement that the NPS quotes from page D.3-143 would be true of any mitigation measure if it were not implemented – without mitigation, the impact would be significant. The statement was not intended to imply that PG&E may elect whether or not to implement mitigation. PG&E does not have the authority to determine whether or not mitigation is implemented. That

decision is made by the CPUC: if the Proposed Project or an alternative is approved, the CPUC's Decision will adopt the applicable mitigation measures, which must be implemented. In recent transmission line proceedings, the CPUC has elected to implement all mitigation measures recommended in the project EIR. Therefore, it should be assumed that mitigation measures recommended for potentially significant (Class II) impacts will be implemented.

CEQA also requires that the impacts of mitigation measures also be considered (Guidelines 15126(c): If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed.) The EIR complies with this requirement by evaluating the suggested tower eliminations and additions. However, without access to the detailed engineering modeling available to PG&E, changes may be required.

- N-23 The degree of visual change that would be experienced at the Bay Discovery Site on Sweeny Ridge would be low-to-moderate. The resulting visual impact (in the context of the overall moderate-to-high degree of visual sensitivity of the visible landscape and viewing circumstances) would be adverse but not significant (Class III). This impact does not require mitigation as it is already less than significant. The reference in the comment regarding the need to eliminate Towers 13/89, 14/91, 14/92, and 14/94 in order to avoid a significant visual impact pertains only to views from Skyline Boulevard and not Sweeny Ridge. As shown in Visual Resources Figure D.3-17B even with the proposed increases in tower heights, the structures would not extend above the treeline defined by the trees on the east side of Skyline Boulevard and do not appear substantially different from the existing structures.
- N-24 Please see Responses to Comments N-3 and N-4.